



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 22, 2013

Mr. John Ohnemiller  
First Assistant City Attorney  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR2013-18379

Dear Mr. Ohnemiller:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 503103 (PIR No. 12738).

The City of Midland (the "city") received a request for records regarding a named former city police officer. You state the city has released some information. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 1703.306 of the Occupations Code, which provides:

(a) A polygraph examiner, trainee, or employee of a polygraph examiner, or a person for whom a polygraph examination is conducted or an employee of the person, may not disclose information acquired from a polygraph examination to another person other than:

- (1) the examinee or any other person specifically designated in writing by the examinee;
  - (2) the person that requested the examination;
  - (3) a member, or the member's agent, of a governmental agency that licenses a polygraph examiner or supervises or controls a polygraph examiner's activities;
  - (4) another polygraph examiner in private consultation; or
  - (5) any other person required by due process of law.
- (b) The [Texas Department of Licensing and Regulation] or any other governmental agency that acquires information from a polygraph examination under this section shall maintain the confidentiality of the information.
- (c) A polygraph examiner to whom information acquired from a polygraph examination is disclosed under Subsection (a)(4) may not disclose the information except as provided by this section.

Occ. Code § 1703.306. You argue the information you have marked consists of information acquired from a polygraph examination. The requestor does not fall within any categories of individuals who are authorized to receive the submitted polygraph information under section 1703.306(a). Upon review, we agree some of the information was acquired from a polygraph examination and is, therefore, within the scope of section 1703.306. Accordingly, the city must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code. However, you have failed to demonstrate how the remaining information you seek to withhold was acquired from a polygraph examination. Thus, the city may not withhold any of the remaining information at issue under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code. As no further exceptions to disclosure have been raised, the city must release the remaining information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Britni Fabian". The script is cursive and fluid.

Britni Fabian  
Assistant Attorney General  
Open Records Division

BF/dls

Ref: ID# 503103

Enc. Submitted documents

c: Requestor  
(w/o enclosures)